



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Winnemucca Field Office  
5100 East Winnemucca Boulevard  
Winnemucca, Nevada 89445  
<http://www.nv.blm.gov>



In Reply Refer To:  
3809 (NV023.60)  
N79868  
N20-05-004P

CERTIFIED MAIL 7005 3110 0000 7727 4671  
RETURN RECEIPT REQUESTED

## **DECISION**

<u>BLM Case File Number</u>	:	<u>Project</u>
N79868	:	Ashdown
<u>Operator</u>	:	<u>Location</u>
Golden Phoenix Minerals, Inc.	:	Section(s) 14, T45N, R29E,
Attn: Mr. Robert Martin	:	Section(s) 13, 23, T45N, R28E,
Executive Vice President	:	MDB&M
1675 Prater Way, Suite 102	:	
Sparks, NV 89434	:	

### **43 CFR 3809 Surface Management Regulations** **Plan of Operations Approved**

Dear Mr. Martin:

The Winnemucca Field Office has reviewed the Plan of Operations N79868 that was submitted on March 22, 2005, and amended on June 21, 2006. Environmental Assessment (EA) Number NV-020-06-EA-014 was prepared and offered for public comment from June 2 through July 6, 2006. One substantive comment letter was received from the Nevada Department of Wildlife. A Finding of No Significant Impact and Decision Record were issued and signed.

The project proposes to use conventional underground mining techniques to remove up to 40,000 tons of waste rock and 120,000 tons of molybdenum ore. The mine is expected to produce about 700 tons of ore per week and would be mined for approximately five years. The ore will be hauled approximately two miles to the west of the mine and processed in a flotation mill on private land. Surface disturbance related to the project would be up to approximately 31 acres on both public and private land.

We received comments from the State Division of Lands as a result of the public comment period on the preliminary EA. They request two project enhancements that are not state laws but constitute good management of resources. They request that all (non-historic) buildings be

painted with natural colors in order not to attract attention, and to use dark sky lighting. More information on dark sky lighting can be viewed at [www.darksky.org](http://www.darksky.org). We agree that following these guidelines would be good stewardship of the project. However, since they are not a state law, and the EA did not specify these requirements, you do not have to implement them as a term of compliance.

It is the decision of the authorized officer to allow Golden Phoenix Minerals, Inc to proceed with the proposed project as described in the Plan of Operations, subject to the following stipulations:

1. No work is authorized under the plan of operations until Golden Phoenix Minerals, Inc (GPMI) has complied with all other applicable state, federal, and local regulations and has obtained all necessary permits.

2. Activities approved in this decision shall not begin until the BLM Nevada State Office issues a decision accepting the reclamation financial guarantee. The reclamation cost estimate for the plan of operation activities is \$216,518 as accepted by BLM in a decision letter dated October 4, 2006.

3. The financial guarantee, or portions thereof, shall be released upon the BLM Winnemucca Field Office and NDEP/BMRR concurrence that adequate reclamation has been successfully completed. Bond release criteria shall be those set forth in regulations at 43 CFR 3809, and the *Nevada Guidelines for Successful Revegetation for the Nevada Division of Environmental Protection, the Bureau of Land Management and the U.S.D.A. Forest Service* (Instruction Memorandum #NV99-013). Bond release will be conducted according to the Surface Management Regulations at 43 CFR 3809.590 through 3809.594.

4. An as-built map will be submitted to the BLM Winnemucca Field Office by May 15 of each year, showing topography, township, range and sections, locations of existing facilities, roads, new areas of disturbance, areas that have been reclaimed with month and year the area was regraded or reseeded.

5. GPMI is directed to monitor the surface water flow at several springs and creeks that are listed below. The locations are shown on the attached map.

- a. Mosquito Spring (AD-SPG-1) near the head of Thacker Canyon
- b. A stock tank (AD-SPG-2) approximately one mile downstream of Mosquito Spring
- c. The northeastern-most spring of the three springs in Cherry Gulch (AD-SPR-5)
- d. The creek below the three springs in Cherry Gulch (AD-SPR-6)
- e. A small, unnamed spring (AD-SPG-3) approximately 3,000 feet southeast of the Sylvia Mine portal
- f. And a small pool (AD-SPG-4) of standing water approximately 1,000 feet west of spring AD-SPG-3

6. Monitoring will consist of measuring flow rates when possible; otherwise it will consist of measuring the area and depth of any standing water, or reporting that the area is dry. Flow rates will be calculated by determining the cross-sectional area and measuring the time required for water to flow a measured distance. Where a defined channel does not exist, a small box will be

placed temporarily to concentrate the flow, which will then be measured. Water measurements will be taken once in the spring (March – May) and once in July, August, and September for a total of four times each year while the mine is being dewatered, starting in 2007.

7. In support of the surface water flow measurements, GPMI is also directed to collect or compile precipitation and temperature data from at least one weather station within 30 miles of the mine.

8. Reports of the water flow measurements, precipitation, and temperature data will be delivered to the Bureau of Land Management, Winnemucca Field Office (WFO) and the Nevada Department of Wildlife within 30 days of each water flow measurement, for a total of four times each year while the mine is being dewatered, starting in 2007.

9. GPMI is directed to conduct a bat survey of the level 8 mine opening and any other mine openings within 1,200 feet of the Sylvia portal suspected to contain bats. The date and type of survey must be coordinated with the Nevada Department of Wildlife to ensure that the appropriate data is collected and reported. A report of the findings will be sent to the Bureau of Land Management WFO and the Nevada Department of Wildlife within 60 days of the survey. This survey must be completed no later than May 1, 2007. If sensitive or endangered species are found to inhabit any of the mine openings, then the Nevada Department of Wildlife in cooperation with the Bureau of Land Management WFO would develop further mitigation that the mine operator would have to implement.

10. If surface exploration drilling is planned between April 1 and May 15, GPMI must first have a bighorn sheep lambing survey conducted by the Nevada Department of Wildlife. If lambs are present in the area, then the Nevada Department of Wildlife may direct GPMI to wait until after the lambing season before conducting surface drilling.

11. In order to protect the bighorn sheep, GPMI must first contact the Nevada Department of Wildlife to get their approval if surface exploration drilling is planned above 5,600 feet in elevation.

12. When cultural or paleontological resources, including but not limited to historic ruins, historic mine workings, historic trash dumps, prehistoric artifacts and fossils, are discovered during the proposed operations the resources shall be left intact and immediately brought to the attention of the BLM authorized officer.

13. The Migratory Bird Treaty Act prohibits the destruction of nests (nests with eggs or young) of migratory birds. To prevent violation of the Migratory Bird Treaty Act, GPMI would either conduct new surface disturbing activities outside the migratory bird nesting season (April 15 to July 15), or employ a qualified, BLM-approved biologist to survey prospective work areas prior to surface disturbance during the nesting season. If active nests were located, or if other evidence of nesting (i.e. mated pairs, territorial defense, carrying nesting material, transporting food) were observed, a protective buffer would be delineated and the area avoided to prevent destruction or disturbance to nests until they are no longer active. The site characteristics to be used to determine the size of the buffer are as follows: a) topographic screening; b) distance

from disturbance to nest; c) the size and quality of foraging habitat surrounding the nest; d) sensitivity of the species to nest disturbances; and e) the protection status of the species.

14. No mining or exploration activities would occur during the winter season (October 1 through March 31) within 200 feet of the 8 Level portal.

15. All reporting requirements specified by the Nevada Division of Environmental Protection shall also be reported to the BLM Winnemucca Field Office.

16. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified to proceed by the authorized officer.

17. The operator would contact the BLM if any noxious weeds are discovered on mining or exploration disturbances, and would treat these noxious weeds to control their spread. The operator shall obtain approval from the BLM authorized officer for all applications of herbicide. Requests must include description of the types and quantities of chemical to be used. All seed shall be tested for purity and the presence of noxious, poisonous and/or prohibited plant species. The test results shall be submitted to and approved by the BLM, unless certified weed free seed is procured for this reclamation project. Two years after the project is recontoured and reseeded the operator would inspect the site for noxious weeds and provide a report of the findings to the BLM. If any noxious weeds are present, then the operator would initiate control measures.

18. All hazardous material spills regardless of size would be cleaned up. Motorized equipment would be inspected daily by the operator for leaks or fluid loss and would be maintained to prevent leaks or fluid loss. If fluids are lost due to leaks during operations, the operator would shut down the leaking machine and would collect any contaminated soil (if present) in a 55 gallon barrel for transport offsite to a permitted facility for proper treatment and disposal. Used oil, antifreeze, batteries, tires and other recyclable materials resulting from equipment maintenance will be collected in closed containers or on pallets, as appropriate, and will be removed from the site on a regular, frequent basis for recycling. Under no circumstances will large quantities of these or other used materials be allowed to accumulate at the site, nor will any of these materials be disposed on or in the land at the site.

19. The following precautionary measures should be taken to prevent wildland fires. In the event your operations should start a fire, you could be held liable for all suppression costs under Title 43 CFR 9212.4. These are in addition to any requirements imposed by the Mine Safety and Health Administration or other governing agencies for work-area fire protection.

- a. All vehicles should carry at a minimum a shovel and five gallons of water (preferably in a backpack pump), in addition to a conventional fire extinguisher.
- b. Adequate fire fighting equipment (a shovel, a pulaski, standard fire extinguisher(s), and an ample water supply) should be kept readily available at each active drill site.
- c. Vehicle catalytic converters should be inspected often and cleaned of all flammable debris.

d. All cutting/welding torch use, electric-arc welding, and grinding operations should be conducted in an area free, or mostly free, from vegetation. An ample water supply and shovel should be on hand to extinguish any fires created from sparks. At least one person in addition to the cutter/welder/grinder should be at the work site to promptly detect fires created by sparks.

e. Any fire restrictions or closures issued by the Winnemucca Field Office will be publicized in the local media, and notice will be posted at various sites throughout the district. We will not individually contact operators. Your notice serves as an authorization that may exempt your operations from certain restrictions in those orders. Your personnel will be responsible for being aware of and complying with the requirements of those orders.

f. Any wildland fire observed should be reported immediately to the BLM Central Nevada Interagency Dispatch Center at (775) 623-3444.

21. The operator shall instruct all employees and contractors in the laws governing collection of cultural artifacts and historical items in the project area.

#### 43 CFR 3809 APPEAL STATEMENT

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the BLM State Director in Nevada review this decision. If you request a State Director review, the request must be received in the BLM Nevada State Office, 1340 Financial Blvd. 89502, P.O. Box 12000, Reno, Nevada 89520-0006, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director.

If the Nevada State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Winnemucca Field Office, 5100 East Winnemucca Blvd., Winnemucca, NV, 89445) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time

the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions, feel free to contact Scott Richey at (775) 623-1525 or at the above address. We have enclosed a copy of Form 1842-1 which you must follow if you decide to appeal this decision.

Sincerely,

Gail G. Givens  
Field Manager

Enclosures

cc: State Director (NV-920)

Mr. Richard Gantt  
Permit Writer  
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